

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-1379

In re: EDDIE DEWAYNE CARRINGER, a/k/a Red Carringer, a/k/a
Sld Dft 2:00m25-1,

Petitioner.

On Petition for a Writ of Mandamus
(2:00-cr-00018-LHT-2; 2:08-cv-00015-LHT)

Submitted: June 11, 2012

Decided: June 26, 2012

Before WILKINSON, NIEMEYER, and MOTZ, Circuit Judges.

Petition granted by unpublished per curiam opinion.

Eddie Dewayne Carringer, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Eddie Dewayne Carringer petitions for a writ of mandamus seeking an order directing the clerk to file his motion under 28 U.S.C.A. § 2255 (West Supp. 2011). Carringer previously attempted to file this motion, but the clerk returned it to him rather than docketing the motion and referring it to the court for ruling. The clerk does not have the authority to make what is, in essence, a judicial determination on an action presented to the court for filing. See McCray v. Maryland, 456 F.2d 1, 4, 6 (4th Cir. 1972). Accordingly, we grant the petition and hereby order the United States District Court for the Western District of North Carolina to file Carringer's § 2255 motion. The motion should be deemed filed as of its original date, February 14, 2012. By our grant of mandamus, we express no opinion on the procedural or substantive merits of Carringer's § 2255 motion. Carringer's motion to proceed in forma pauperis is likewise granted.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION GRANTED